

	709, subclass 226
Group IV: Claims 25-28	Drawn to a method of countering attacks in a network, class 709, subclass 220

Election/Restriction.

In response to this restriction requirement, Applicant provisionally elects Group I, Claims 1-15 and 29-32, with traverse.

Basis of Traverse

The Examiner acknowledges the relationship of the claimed inventions by indicating that all of the inventions are in the same class, class 709. However, the Examiner's indications of subclass distinctions are respectfully traversed by the applicant and are not sufficient reason for not examining at least groups I, II and IV together.

Applicant respectfully traverses the Examiners classifying claims directed to "emulating a network of two or more distinct types of logic systems" in subclass 224 (Computer network monitoring) while those directed to an emulation wall should be classified in subclass 226 (Network resource allocating) and those directed to countering attacks in a network using emulations in subclass 220 (Network Computer Configuring). In none of these cases does the subclass indication have any obvious connection to the different claim groups at issue.

The claims in groups I, II and IV are directed to network emulation and uses thereof. Applicant contends that, particularly as of the priority date of the application, the art of network emulation was sufficiently unified that the claims should be searched and examined together.

Restriction is a discretionary action by the Commissioner that is only appropriate when the claimed inventions are so different as to require different searching and analysis by the Examiner. In the present case, the Examiner has provided no evidence showing that "network emulations" is a field so broad as to have acquired separate status in the art. The

assignment by the Examiner to different subclasses that are not clearly related to the claims at issue is not such evidence.

The Examiner is respectfully reminded of the provisions of MPEP 803:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

In the present case, the claims in Groups I, III, and IV all relate to network emulation and search and examination of those claims, particularly in light of the art as it existed as of the priority date, can be made without serious burden.

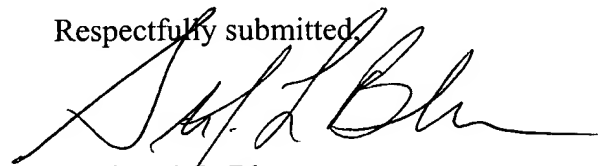
Thus, Applicant respectfully traverses the Examiner's restriction and urges that Groups I, III, and IV be examiner together. As the subject application has a priority data extending back to 15 November 1999, applicant believes examination together is further warranted in order to provide more timely action on the pending claims.

Request for telephone interview

If the Examiner continues to maintain that Groups I, III, and IV cannot be examined together, Applicant requests a telephone conference with the Examiner. The Examiner is invited to telephone the undersigned at (510) 769-3508 to conduct such a conference.

QUINE INTELLECTUAL PROPERTY LAW GROUP
P.O. BOX 458, Alameda, CA 94501
Tel: 510 337-7871
Fax: 510 337-7877
PTO Customer No.: **22798**
Deposit Account No.: **50-0893**

Respectfully submitted,



Stephen J. LeBlanc
Reg. No. 36,579